

REMARKS

The Office Action dated October 5, 2004 has been carefully reviewed and the foregoing remarks are made in response thereto. In view of the above amendments and following remarks, Applicants respectfully request reconsideration and reexamination of this application and timely allowance of the pending claims.

In this Amendment, claims 61, 96, 97, 99, 100 and 101 have been amended, claims 62 to 94 have been cancelled, and new claims 102 to 106 have been added. Applicants respectfully submit that no new prohibited matter has been introduced by the amendments to the specification and claims. While written description support for the claim amendments can be found throughout the specification and in the original claims.

Summary of the Office Action

1. Claims 61 and 95 to 101 were rejected under 35 U.S.C. 112 (second paragraph) for allegedly being indefinite.
2. Claims 61 and 95 to 101 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent 5,891,857 or 6,045,997.

Response to the Office Action

1. Rejection under 35 U.S.C. 112 (first paragraph)

Claims 61 and 95 to 101 were rejected under 35 U.S.C. 112 (second paragraph) for allegedly being indefinite. Applicants have amended these claims to remove the terms rejected by the Examiner and therefore submit that rejection is moot. Applicants request withdrawal of this rejection.

2. Rejections under 35 U.S.C. 102(b)

Claims 61 and 95 to 101 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent 5,891,857 or 6,045,997. Without acquiescing to the merits of the rejection, Applicants have amended claim 61 so that it now encompasses the full length BRCA2 nucleotide sequence (SEQ ID NO: 4) containing exon 15 (SEQ ID NO: 2) which encompasses the previously claimed mutation. Applicants submit that the rejection is now moot because neither of the cited references displays exact sequence identity to the nucleotide sequence set forth in SEQ ID NO: 4.

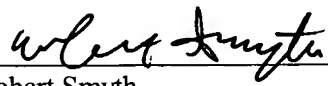
Conclusion

Applicants respectfully request reconsideration and the timely allowance of the pending claims. A favorable action is awaited. Should the Examiner find that an interview would be helpful to further prosecution of this application, she is invited to telephone the undersigned at his convenience.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Date: **March 7, 2005**
Morgan, Lewis & Bockius LLP
Customer No. **009629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 379-3000

Respectfully submitted,
Morgan, Lewis & Bockius LLP


Robert Smyth
Registration No. 50,801